

PLANNING COMMISSION MEETING

November 17, 1999

CALL TO ORDER:

Chairman Maks called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Dan Maks; Planning Commissioners Vlad Voytilla, Charles Heckman, Eric Johansen and Tom Wolch. Sharon Dunham and Don Kirby were excused.

Staff was represented by Senior Planner Barbara Fryer, Principal Planner Hal Bergsma, Senior Planner Alan Whitworth, Assistant City Attorney Ted Naemura, and Recording Secretary Cheryl Gonzales.

VISITORS

Chairman Maks gave format information and addressed the visitors. He asked if anyone wished to address non-agenda issues or items. There were none.

Chairman Maks reported staff had communicated that they needed to pick a date to go on a bus ride with regard to their visit of the designated tree places from the previous meeting. Options were Tuesday 11/30 in the a.m., Saturday 12/11 in the a.m. or Saturday 12/11 in the afternoon.

Commissioner Heckman said Saturday, December 11, 1999, 9:00 a.m. would be good. It was scheduled at that time and they would meet at City Hall.

NEW BUSINESS

A. CPA99-00005/CPA99-00006 LOCAL WETLANDS INVENTORY

The proposed amendment implements Periodic Review Order #00717 (formerly WO#00628), Work Task # 3 - Goal 5 Inventory. This work task amends Beaverton's Comprehensive Plan by adding supporting data to the Local Wetland Inventory and Riparian Assessment and text to the Comprehensive Plan explaining the purpose of the map. The map amendment (CPA99005) would bring the City of Beaverton Comprehensive Plan Maps up to date with respect to Natural Resources by implementing Goal 5 requirements to prepare and adopt a Local Wetland Inventory and Riparian Assessment.

The map proposal amends Beaverton's Comprehensive Plan Significant Natural Resource map to update the 1984 data by adding Local Wetland Inventory and Riparian Assessment map areas, information required under Statewide Planning Goal 5. The Map was prepared according to the methodology prescribed by Goal 5 implementing regulations (OAR 660-23-090 AND OAR 660-23-100). The text portion of the amendment (CPA99006) adopts the supporting documents, including the methodology for implementing Goal 5 Local Wetland Inventory and Riparian Assessment regulations (OAR 660-23-090 AND OAR 660-23-100).

Ms. Barbara Fryer, Senior Planner, stated the proposal had been before the Commission many times in the past and staff have asked for several continuances. Staff was again requesting another continuance. They have had some difficulty getting the Division of State Lands to respond to the request for review. They cannot proceed further with the adoption of the local wetlands inventory or the determination of significance without DSL concurrence. So, staff are in a holding pattern until DSL are able to allocate their staff appropriately to do that review. They received a recent communication from DSL that they would have their review complete by December 10, 1999. The notations in the staff request for continuance that the Planning Commission had before them indicated that staff would like a continuance to January 12, 2000.

After further consultation with DSL and with the consultants, it seems more likely that a continuance to February would be more appropriate. This would allow the consultants to spend approximately one month on any changes that Division of State Lands might have and then one more week of review by the Division of State Lands and then about three weeks for staff to revise any appropriate Staff Reports and make them available to the public before the next hearing. As a result, staff was requesting continuance for February 9, 2000, to allow all of those actions previously described to occur.

PUBLIC TESTIMONY:

PHIL FRENCH 3996 SW 171 Ave., Beaverton, OR 97007, stated he was a member of the citizens advisory that had been consulting on the wetlands map. He wanted to go on record saying that the citizen's group is also anxious to see the issue put to bed and get the information from DSL. Some of the concerns that he had with the way the study had proceeded were similar to the concerns the Commission had with tree preservation. It appeared to be underfunded and the consultants were over worked. The staff was trying to do a really good job and things were being missed and the citizen's advisory committee had come up with numerous additions. They had a meeting with the consultants at their office, he believed on the consultant's own time to actually make updates to the map and they were promised that those updates would be included and that the information would be sent off to DSL and now they were just kind of holding their breath, waiting for things to come back. He had personally identified a perennial riparian area in part of the Cooper Mountain area that was missed by the consultants because of the procedures they were asked to follow as far as things not being on a base map, and in fact, this property has been identified as a primary protected water feature in the Metro Title 3 maps. The information that had been given to staff and consultants numerous times and hopefully it will all be included. He was anxious to see the final map from DSL and if there are any further additions he wanted to bring them up and testify once things are brought before the Commission.

Ms. Fryer noted that staff's intention was to mail out a copy of the Staff Report to everyone who had testified in the hearing thus far, at least a week if not more, in advance of the hearing so that they have benefit of looking at the changes that staff and DSL and the consultants had proposed.

Chairman Maks thanked her and asked her if it is possible to get the staff report out more than a week prior to the meeting so the citizens could get their comments in writing for the Commission prior to the meeting. This would allow the Commissioners to read their input and then listen to the testimony at the hearing. He then closed the public portion of the hearing.

Commissioner Voytilla MOVED and Commissioner Heckman SECONDED a motion that CPA 99-00005, LOCAL WETLANDS INVENTORY ASSESSMENT MAP, be continued to a date certain of February 9, 2000 and time certain of 7:00 p.m.

The question was called and the motion CARRIED unanimously.

Commissioner Voytilla MOVED and Commissioner Heckman SECONDED a motion that CPA 99-00006, BACKGROUND DATED TEXT AMENDMENT, be continued to date and time certain of February 9, 2000, 7:00 p.m.

The question was called and the motion CARRIED unanimously.

B. CPA99-00017/CPA 99-00018, LOCAL TREE INVENTORY UPDATE

The proposed amendments implement Periodic Review Order #00717 (formerly WO#00628), Work Task #3 – Goal 5 Inventory. This work task is intended to bring the City of Beaverton Comprehensive Plan Map up to date with respect to Natural Resources. The amendment (CPA99-00017) would update the current Tree Inventory Map to include significant groves and trees that have been altered since the last inventory. The proposal includes adding five new significant trees to the inventory, which are located on the following map and tax lots: 1N1 20BA 03900, 1S1 33BD 90000, and 1S1 28DA 06100, and in the right-of-way adjacent to SW Davies Road between SW Harness and SW Stallion Court. Recommendations regarding the significance of the proposed trees will be discussed in detail in the staff report.

The text update (CPA99-00018) includes one new page per significant grove or tree, which details the grove/tree health, a general comment about the grove/tree and a photo. Staff proposes adopting the map (CPA99-00017) as an update, adding appropriate new significant trees (CPA99-00017 and CPA99-0018) and updated pages (CPA99-00018). Please note the new computer-generated map would replace the current map in its entirety, however, the new photos and health reports will supplement existing data.

Ms. Barbara Fryer, Senior Planner, noted that the proposal had been before the Commission on September 15, 1999. At that time they had had a number of questions about the inventory. The two most important questions concerned the accuracy of the mapping on 1S1 32 and the DLCD Work Program. Staff asked the consultants to look at map 1S1 32 once again and requested some additional changes to the map; there is a replacement map enclosed in the map packets to take the place of the previously mapped page. In addition to that, staff looked at some other mapped pages to do a field check to make sure it coincided with what they saw based on the Washington County database called Geonet, which included geographic overlay of parcels. They then pick different overlays such as aerial photo. The other map pages based on the spot checks appear to be correct. It appears that this particular map was the one map that was incorrect. So, staff recommended that they replace the map in the Staff Report prepared for September 15 and replace it with this map.

In addition, Chairman Maks questioned what the project was in relation to our DLCD approved work program. So, staff researched the periodic review evaluation, the work program, the submittals to the Department of Land Conservation and Development and those

that were returned from the Department of Land Conservation and Development. Staff's original analysis included reviewing the following data sources for potential inventory: significant natural resource areas, scenic areas, historic areas, historic trees, trees on undeveloped lands and trees specifically protected through the Board of Design Review or Planning Commission. In addition, there were some Washington County facilities or trees and different resources that they also said they would look at. Specifically, they looked at significant natural resources, scenic areas, historic resources, historic trees and otherwise protected trees annexed from Washington County, but they would limit their focus only to those areas within the current City limits. They would then apply the relevant Washington County standards consistent with the urban planning area agreement. The final work program submitted to DLCD for approval in May of 1996 indicated that staff would complete those work tasks pursuant to any changes that might have occurred in the Goal Five ruling that came down that very same year. DLCD sent back an approval of the periodic review work program and in that approval, they essentially said that staff would update inventory text and mapping rather generically. Staff have some latitude in what they actually do or do not do in terms of their inventory, she believed.

When developing their scope of work, staff specifically asked the consultants to bid on using the existing tree inventory to identify groves and trees that had been eliminated as one of their work program items. All of the bids that came back to them indicated that that was a lot of work to do and that they probably should not be paying a consultant to be working in that manner. So, one of the items that this particular successful consultant bid included an update of the inventory forms and photographs in their existing database, a memorandum describing the significance and condition of existing inventory and an updated tree inventory map. Along with that, the consultants were asked research tree regulations, and to propose new tree regulations, appropriately. They had completed all of those work tasks. Some of them had already previously been submitted to the Commission such as the package that they received in September, and they also received the significance memo and some of the work that they completed regarding the tree regulations have been attached to Ms. Smith's work that she has been doing with Mr. Sparks. So, they have completed what they were asked to accomplish.

However, due to concerns at the last meeting on this subject, staff found some resources to hire an intern to complete a mapping project of the tree preservation plans that have been complete in the past, to map those areas and to create a notebook for those tree preservation plans, so they will have benefit of that in the future.

In addition to those issues, staff came up with a number of issues. As noted, Goal Five is to protect open space and natural resources within the City. Inventories are to be conducted for open space; mineral and aggregate resources; energy resources; fish and wild life habitat areas; ecologically and scientifically significant areas including desert areas; outstanding scenic views and sites; water areas, wetlands, watersheds and groundwater resources; wilderness areas; historic areas, sites, structures and objects; cultural areas; potential and approved Oregon recreational trails; and potential and approved federal wild and scenic waterways and state scenic waterways. With adoption of the new Goal Five in 1996, inventories of outstanding scenic views and vistas, historic sites, structures and objects and cultural areas were all made optional. They can be done at the local government's discretion.

With respect to the other resources, the City has already identified mineral and aggregate resources. There are two, but both areas have a development plan on them so they are no

longer considered mineral and aggregate resources, and are now turned over into another use-- the Progress Quarry and the area at Beard and Murray. In terms of energy resources, we do not have any in the City. We can propose different types of regulations that would help conserve energy within the City which we did through solar regulations and we can further those types of regulations.

In terms of fish and wildlife areas and habitats, significant groves and trees could potentially be expanded to qualify as wildlife habitat areas. Some additional work would be required in order to meet the specific criteria in Goal Five, such as having documented occurrences of specific species that are on the threatened, endangered or sensitive species lists at the state level, or areas that are identified as critical habitat either at the state or federal level. Those are the types of things that would qualify an area as having significant wildlife habitat. There are not any known ecologically and scientifically significant areas in the City.

Regarding outstanding scenic views and sites, tree areas could be classified as outstanding scenic views and sites if the Planning Commission and staff wanted to make those particular types of findings. For water areas, wetlands, water sheds and groundwater resources, part of the purpose of doing the local wetlands inventory was to identify water areas and wetlands pursuant to Goal Five. Those particular areas are identified through that aspect of Goal Five. Groundwater resources are another work program item that another division is currently working on as well as wellhead protection which goes along with that particular aspect of Goal Five. There are no wilderness areas in the City.

Historical areas, sites, structures and objects will be another issue that will come before the Commission, probably next year. The program and potential new sites went through several iterations at the Historic Resource Review Committee. Ms. Fryer reminded the Commission that they did talk about some historic potential program policies that might come forward and that staff is still exploring those options. There are no known cultural areas in the City, as well as no potential or approved Oregon recreation trails, no potential or approved federal or state wild and scenic waterways. So, in terms of the Goal Five work program, the types of habitat that the City has is limited with respect to what can and can't be done under Goal Five.

In 1984, under the previous regulations, the City conducted one of the first Goal Five inventories. It was adopted as a comprehensive plan amendment in 1984. That amendment created a map known as significant natural resources map which contained wetlands and the riparian streams and corridors that are important principally for the wildlife habitat value. Other areas on the map that contain major stands of trees, drainage swales and other natural vegetation were determined to be primarily important for aesthetic value, although many also provide wildlife habitat of some, although of relatively less importance. Based on those findings, the Goal Five inventory consisted of that significant natural resource area map which was enclosed in the Commission's package. It was very limited, it included areas such as the nature park, portions of Johnson Creek, portions of Beaverton Creek and areas known today as Tech Woods or Nike Woods. It also included Fanno Creek. It is very limited in its scope and coverage of the City limits current in 1984. That particular ordinance was signed in to law in May, 1985.

In August 1985, an ordinance was brought forward to the City Council which adopted a new section called Tree Regulations. That particular section authorized the Board of Design Review

to adopt a tree inventory. The tree inventory adopted by the Board of Design Review is the current significant tree inventory. The Significant Tree Inventory was never adopted as a comprehensive plan map, it was never adopted pursuant to Goal Five and was never officially adopted by City Council. It was consented to by City Council, but it was never adopted as a comprehensive plan map. In February of 1991, the Board of Design Review approved the significant tree inventory. The inventory was conducted by our staff arborist Scott Plamondon, and did not include information related to wildlife habitat. It was strictly for trees, primarily for their aesthetic value. The criteria included things such as distinct size, shape, location, possesses exceptional beauty or is significant due to a functional or aesthetic relationship to a natural resource. Those lead us to believe that perhaps we could make some findings related to scenic resources or to open space under Goal Five for the existing tree inventory, but in terms of wildlife habitat it would be a very big stretch to adopt specific findings related to the existing tree groves and tree inventory.

The other state law that the tree inventory could have been adopted under, although the 1991 Staff Report does not specifically state it, is the Oregon Forest Practices Act. In 1991, the Forest Practices Act permitted local governments to allow, prohibit or regulate forest practices on lands within an acknowledged urban growth boundary. If such a local government adopted regulations pursuant to that act, that would relieve the state forester of any responsibility for regulating forest practices such as clear cutting, logging of any kind or removing of trees within those designated areas. Staff have not found anything in the 1991 Staff Report that indicated that it was adopted pursuant to that regulation. Staff are still looking into that to see if there was any additional information that perhaps they had not found at this point in time.

In September 1999, the City Council had adopted the areas that had been annexed since 1988 as a significant natural resource area map, the Goal Five map under the comprehensive plan. Staff proposed the amendment to update the city's current significant tree inventory map with areas that had annexed. The adopting ordinance clearly amended a comprehensive plan map, but whether that map exists or not is questionable. Staff have information from the City Attorney that despite the fact that they did not have a map at that time, it does not negate the fact that they had adopted those areas. The dilemma, then, is that the newly annexed area map is adopted as a Goal 5 Significant Resource and amended the Significant Natural Areas Map to add these resources. In 1991 the Board of Design Review adopted the significant tree inventory map. In 1984, the Significant Natural Resources Map adoption followed the Goal Five process and included specific development code implementing regulations today which identify what can and can not be done in significant and important resource areas. It just so happens that many of those regulations are the same regulations that currently apply to the significant tree inventory. The areas outside the City limits, the annexed areas, were adopted under the Goal Five process. If the current significant tree inventory was to be adopted by ordinance, there are several options for preparing findings to justify its adoption. The City could either acknowledge groves and trees on the tree inventory are not a Goal Five resource and adopt the map as pursuant to perhaps the Forest Practices Act or some other regulation, or we need to adopt as a Goal Five map and complete an ESEE analysis. Staff could propose the existing Significant Tree Inventory as wildlife habitat, but it would require quite a bit of field work not covered under the existing contract. City Council would need to approve funding for additional work and consultant that may be necessary to accomplish the field work. Another option is to propose the Significant Tree Inventory through the Goal 5 open space provision or as a scenic resource, or a combination of the two. The significance of the decision becomes

clear in light of the current amendments that Ms. Smith and Mr. Sparks are working on and will be coming back to you on December 15, 1999. Ms. Fryer said staff wanted to continue this particular item until December 15, 1999, so they can address these issues so that it could feed into the Development Code and Comprehensive Plan regulations that were coming back to the Commission on December 15.

Chairman Maks asked Ms. Fryer if she wanted direction from the Commission with regard to how they feel about the Forest Practices Act, ESEE, wildlife habitat, open space protection, or will the staff do more research on that? Ms. Fryer responded that they wanted the Planning Commission's input now. Based on additional research, they may go a different direction, but they wanted the Commission's input now.

Mr. Bergsma wanted to add that the wildlife habitat issue was very critical here. If they were going to pursue examining the groves of trees as potential wildlife habitat, they needed to know in what respect they are wildlife habitat. There are different ways of inventorying habitat, a safe harbor approach based on documentation of habitat for endangered or threatened species at the federal or state level. If there is no documentation basically it could be said that it is not there. They had done some examination of that but they needed to make sure that was the case. There was always the option that the local government can choose to establish their own criteria for what wildlife habitat is. It could be, for example, said that they want to preserve habitat for squirrels. If a more expansive definition of significant habitat was used, then they would have to go out and see what is there and that will cost money and does have fiscal implications.

Chairman Maks gave his opinion which was he did not want to do the wildlife habitat. It was money. He wanted to identify the areas, but he preferred to do it under the optional open space and/or visual or the Forest Practices Act. Basically, the reason was driven by dollars. He preferred to use the dollars on his second issue. He was not going to support this issue and it was not an update when they had not looked at the other areas that they know exist and had been talked about. It was an update of the existing map in the annexed areas, not a local tree inventory update. He asked why they still looked at areas where there were trees on undeveloped land? Ms. Fryer said they did not. Staff did not ask the consultants to do that.

Chairman Maks said that his reasoning behind it was that they have so few left, if you look at how this process happens, he did not want to wait another nine years for them to be identified. That was also why he preferred to do the open space and visual. He said the drawings helped. If they were going to spend dollars, he wanted to spend them to identify the few areas, a 20 acre site on the corner of Weir and Murray Boulevard, it may be more than 20 acres with one house on it and it had a plethora of trees and it had not been identified yet.

Ms. Fryer said she thought she heard Chairman Maks say he did not want to spend money on the ESEE. Whatever kind of Goal Five adoption they have, they will have to do an ESEE. Chairman Maks responded that he meant the wildlife habitat. He thought that open space and visual, especially for an urban area, was an excellent way to go. He realized that would take a little bit of money but nothing compared to wildlife habitat identification.

Commissioner Heckman gave credit to Ms. Fryer that all these issues had surfaced, but he wanted to know why so late in the process. He stated there were a lot of issues there that had

not been addressed which were very important. He thought her request for a continuance to December 15, 1999, was appropriate.

Commissioner Heckman responded to Chairman Maks question that he felt it was necessary to identify these things. They had to identify the habitat in a practical manner. He questioned about not having any natural waterways considering he saw geese around and wondered where they were going. He thought staff was right on track, and appreciated their work. On page 7, fourth paragraph, CPA99-00007 and CPA99-00008, whether or not adoption of this annexed area was valid, he suggested Mr. Naemura might speak to that.

Mr. Naemura stated that the question was what would a challenge look like, and second what would the result be of extensively amending a map that wasn't there to be amended in the first place. Those are the factors that dictate the outcome. The City intended to amend its comprehensive plan in a way to account for the annexed area and certainly that intent has to be given some expression. He felt there was a range of possible results and total invalidity should not be one, but the true intent is a logical impossibility, amending something that does not exist, but somewhere in between is where they will be. Perhaps the most reasonable thought was that this map has a large space in the middle representing nothing and then smaller areas on the periphery that had mapped significant trees, this would be the most broad analysis that could be given.

Commissioner Heckman stated he felt they needed a habitat inventory and the Forest Practices Act would be the most economical way of dealing with it, and if that would get them 98% of what they wanted, then that would be the way to go.

Mr. Bergsma clarified that they could also address aspects of Goal Five in order to adopt a tree inventory and establish regulations protecting those trees.

Commissioner Heckman asked Mr. Bergsma at this point what was staff's leaning as to the most appropriate way to do it.

In response to Commissioner Heckman's request, Mr. Bergsma replied that he thought the staff wanted to figure out a way to make it whole so they didn't end up with a map with a hole in the middle of it. Staff prefers a complete inventory map that was based on a Goal Five if appropriate, and if not appropriate based on the Forest Practices Act as well as on City policy. At least they could clarify what they were basing it on.

Mr. Bergsma responded to Mr. Naemura's request for clarification that if they used the safe harbor approach which was a pretty limited approach to defining land with habitat, they probably won't find habitat unless for some reason a resource agency comes back and says there is a sensitive species that they do have mapped in a document. In that case, then it would have to be dealt with in a different way. They would have to do an ESEE analysis in a different manner and possibly have a program decision.

Commissioner Heckman stated that on page 4, he liked the idea of hiring an intern to research past tree preservation plans, was that doable, is it cost effective?

Ms. Fryer said the answer to both questions was yes. The Policy and Research Division has some money programmed for extra help and that they could expend to hire an intern to work on that project. It may be possible that either the GIS section could actually map those, or the intern may have enough experience to do both jobs.

Commissioner Heckman said that when he thought of all the tree preservation plans that had happened before this body, he would like to see some follow-up. What they did, did it matter and what they proposed, 10 years later what happened with that. He felt this would be a way to find this out. Ms. Fryer said it would and that development services had identified some areas where the tree preservation plans were not working. The regulations that both Ms. Smith and Mr. Sparks have been working on include new text to correct some of those problems with past tree preservation plans.

Commissioner Wolch stated that he did not feel he had a good handle on what some of the implications were of the tree inventory either being for the Forest Practices Act or Goal Five. He said that the chart prepared by staff showed the choices well, but wondered what the implications were for one versus the other. Going the Goal Five route make it legally stronger, and another thought that came to his mind was that if they picked the route of doing it outside Goal Five as an open space and there is not budget to map, does that effect the present way they do tree preservation plans? Would it call any of that into question or was it still a good process based on not having an adopted map? He kept coming back to the thought of what difference did it really make, Goal Five versus not Goal Five.

Ms. Fryer responded that they currently have development code regulations in place that guide development related to the significant tree inventory map. The fact that it is not Goal Five does not negate the fact that they have that map, that it was adopted by the Board of Design Review pursuant to an ordinance that gave them the authority to do so. Because it was not adopted through Goal Five does not mean that the current significant tree inventory map was invalid. What it means is, that it makes it invalid in terms of Goal Five. They cannot just re-adopt it pursuant to Goal Five without going through the ESEE analysis. It is a current map providing information for the Design Review process, the Planning Commission process. It provides staff with an opportunity to protect a resource. The reasoning behind protecting that resource was based on the reasoning that was adopted in the tree regulations in 1990. The focus that they were currently under right now, in terms of trying to make it more wildlife habitat oriented, making it more stringent, are different than the findings and reasoning behind the original adoption. The change in focus may not be possible under the way the map is currently adopted. They were still working that out at the staff level, trying to determine exactly what is possible and is not possible. But it did not negate the fact that the City has a current significant tree inventory map and current regulations. Depending on which approach they take for final adoption, that will guide the way to develop the new tree regulation ordinance. If they do anything related to Goal Five, they have to the ESEE analysis before they can apply any of the potential regulations to trees identified in the 1991 inventory. If they follow the Forest Practices Act, it was unclear to Ms. Fryer whether any alternative findings are necessary. The existing regulations would apply under the Forest Practices Act. It allows a lot of leeway in terms of what a local government is allowed to regulate. The findings that they use to adopt whatever regulations are in place would be crucial to whether it holds water or not.

Commissioner Wolch asked that if they took the route of going through the ESEE analysis and with the Goal Five route, what would that do for the City of Beaverton? Mr. Bergsma responded that one thing they had to keep in mind was that under the state planning system, they were supposed to balance competing planning objectives. Some of the written testimony received last week from Oregonians in Action raised the issue of affordable housing and the impacts of the tree protection regulations. By going through the Goal Five process and looking at the ESEE consequences of protecting the resource in some way versus allowing conflicting usage, you were essentially showing that you were trying to balance those competing objectives. It was helpful to try to apply Goal Five if they could.

Chairman Maks stated that if they were ever challenged, they would have more basis if these trees were identified through the Goal Five process.

Mr. Bergsma said it was certainly possible, he supposed, even if the City did not choose to identify stands of trees as significant under Goal 5 to go through a balancing process in your findings which would show that you considered the impacts of protecting the trees, whether for Goal Five reasons or other reasons, against other competing objectives.

Commissioner Voytilla stated that under the Goal Five scenario, there were three potential ways they could go. Visual was noted in Goal Five lingo. Through the Goal Five process he would assume then that the other benefit for the City and the general public would be looking at what other types of things they may have to do to perhaps provide equity or compensation. Then they could come in with whatever density transfers or provide that methodology, so they would be looking at that entire balance. He said he was not familiar enough or well versed enough with the Forest Practices Act to know what it would be. He felt a synopsis would be helpful. The other question he had was really talking about a critical resource issue relative to staff time to implement this by some sort of time table. What were they looking at as far as the tasking for consultant or staff time and was it reasonable to do in the time period they have, was there a preference of these three from that standpoint?

Ms. Fryer responded that, in terms of his first question with respect to would they be looking at this in terms of a resource for harvest, that was the reason the Forest Practice Act was actually enacted, to regulate what harvesting would occur. The reading that she had done on how the Forest Practice Act applies within the urban growth boundary indicates to her that the Oregon Department of Forestry left it wide open for a local jurisdiction to determine exactly what they wanted to do to regulate that harvesting. They could say anything in terms of what they want to preserve and what they want to allow to be harvested.

Chairman Maks interrupted and stated that there needed to be more study into this and then asked counsel if there had ever been a challenge to a jurisdiction with regard to their development code and implementation of the Forest Practices Act. He said he would hate to adopt it and then find out that there were numerous cases where it had been challenged.

Ms. Fryer thought that was a good question and she had not thought about that. With regard to Commissioner Voytilla's question about staff resources, if they went with wildlife habitat they would have to get a budget approval for that and would have to go out and get a consultant to work on the project and that would likely not occur until the next budget cycle. The field work itself would take six to nine months, if not a year, so they were looking at a year and a half out

before they had a final project. They had indicated in their work program to the Department of Land Conservation and Development that this particular Goal Five package which included the local wetlands inventory, etc., would be done by July of 2000. Under Senate Bill 543, new regulations were put on periodic review which said local jurisdictions could have up to one extension of 180 days. So, it's likely that if they were to go the wildlife habitat route, there would be some issues with timelines to periodic review. She did not know the answer of how they could resolve that at this point in time. If they went with open space or visual or both, it was something that working under Mr. Bergsma that they could potentially achieve within the time frame perhaps even as soon as December 15, 1999 depending on how in depth they got and how staff resources were allocated, they may be able to achieve by the next meeting.

Commissioner Voytilla then asked if they would be looking at the wildlife habitat to be a separate project ongoing for amendment down the road? Ms. Fryer's answer was, potentially. The other alternative though was that if they went the safe harbor route, that would be a very simple act of consulting once again with the state and federal resource agencies to find out if there are any mapped resources. If they went that route and they adopt something for a wildlife habitat, it was highly likely that everything shown in the tree grove listing would not be adopted as wildlife habitat but it would be something much smaller than what they had in the previous inventory. Depending on what the ultimate objective was, one approach may be better than another.

Commissioner Voytilla said that his feeling at this point was that his interest was always to have good, clear and objective standards that they could apply. He would probably follow something along the Goal Five line, not exactly certain that scenic would stick as well as open space because they have some trade offs with open space. They would have a better, overall product if they take all three into consideration.

Mr. Bergsma commented that there might be some treed areas that would be considered open space and others scenic, so there may be some distinctions in the way they address treed areas.

Commissioner Johansen said that he was going to be general and he needed to give further consideration based on all the questions posed to far. He felt they needed to do as good a job as they can on inventory and he did not want to put any recommendation out based upon a budget assumption that they really did not know. They needed to do what was right in terms of livability and desirability of the community to know what they were doing with these dwindling resources and let Council decide how far they were willing to fund something to achieve the goals that they and the Council expressed. He was relying on staff to determine what would be comprehensive, thorough, and effective, and tell the Commission what method would best meet those goals. He was undecided at that time, he needed more material.

Commissioner Heckman questioned if the staff really felt that by December 15, 1999 they could bring something back there that was resolute enough that they could fully understand and weigh the pros and cons of all issues. Mr. Bergsma responded that he could not say for sure, but they would be working on it diligently.

Chairman Maks thanked the staff and stated that by discussing this issues at a public meeting they had learned a lot and provide direction and the public was well served if they keep moving in that direction.

Commissioner Voytilla stated that on the memorandum from Shapiro, exhibit 5 page 2 at the top, there was a discussion about damaged trees and talking about an inordinate number of dead or dying trees and a question of safety hazard and liabilities. Had the City done anything to notify the Parks Department about this? Ms. Fryer said yes, they had forwarded this information to the Park District and she would follow-up with a phone call to see if they will follow-up. She then asked Chairman Maks if she could get Commissioner Wolch's opinion on different alternatives.

Commissioner Wolch said they could put him down as supporting open space for now. It seemed to him, from what was presented that evening that Goal Five would be a difficult route.

Chairman Maks interrupted and stated that open space did fall within Goal Five, it was just not as difficult to do as wildlife habitat which also falls under Goal Five. Mr. Bergsma said the real difference was the difficulty in doing the inventory work. Chairman Maks said that open space still fell within Goal Five and gives more solid footing.

PUBLIC TESTIMONY:

ROSS TEWKSBURY P.O. Box 25594, Portland, OR 97298, stated that he was on the advisory committee and was there because he would not be able to come to the December 15, 1999 meeting. He went on to say that he was heartened by their comments previously and also at the September meeting. He wanted to urge them to hang tough on these things, keep working on them. He had been working on them for quite some time. He agreed with Commissioner Johansen had said. He felt some of the issues that came up last time on the inventory about the annexed area, the areas that were less than two acres were not even looked at needed to be addressed. Another point that came up last time were the changes in the already existing area of Beaverton. They had done a pretty good job of going over stuff that had been lost or missing since then but what about new areas that may be significant now or missed the last time. He felt there should be an effort to identify individual trees in new areas and in future ones. He felt they should consult residents and neighbors, especially concerning wildlife habitat. They would know best from what they see. He did not feel it was necessary to do an expensive study on wildlife habitat because there were many studies already done. It seemed to him that those things were ignored by the consultants. Independent landowners had done studies on these areas and this could be tapped. He felt Commissioner Heckman's question as to what had been happening was relevant.

Chairman Maks closed that portion of the hearing.

Commissioner Wolch MOVED and Commissioner Heckman SECONDED a motion to continue CPA 99-00017, LOCAL TREE INVENTORY UPDATE, to a date certain of December 15, 1999.

The question was called and the motion CARRIED unanimously.

Commissioner Wolch MOVED and Commissioner Heckman SECONDED a motion to continue CPA 99-0018, LOCAL TREE INVENTORY TEXT UPDATE, to a date certain of December 15, 1999.

The question was called and the motion CARRIED unanimously.

C. **CPA 99-00020 RZ 99-00011 16705 SW HART ROAD COMPREHENSIVE PLAN AMENDMENT AND REZONE**

This proposal is to amend the Comprehensive Plan and Zoning Maps to add this parcel and to designate it Urban Standard Residential and Residential 5 (R5) instead of the current Washington County designation of Residential R6. The site is located at 16705 SW Hart Road west of SW 167th Drive. The site is within the Washington County Residential R6 zone and is approximately 0.9 acres in size. Tax Lot 00700; Map1S1-19DA.

Chairman Maks asked if there was any member of the Commission who wished to declare an ex parte contact over conflict of interest in the following request or for any reason disqualify themselves from participation. He asked if anyone wished to challenge the right of any member of the Commission to participate in the hearing or ask that the hearing be continued to a later date. Hearing none, he began the hearing.

Mr. Alan Whitworth, Senior Planner, stated this proposal is a City initiated quasi judicial amendment to add a City comprehensive plan map designation and zoning district to tax lot 00700; Map1S119DA, located at 16705 SW Hart Road. The City Council approved the annexation at the November 8, 1999 meeting to become effective 30 days following the ordinance's second reading. The purpose of the proposed amendment is to add newly annexed property to the comprehensive plan and zoning maps. The parcel is currently designated Residential 6 by Washington County in compliance with the Washington County Beaverton Urban Planning Area Agreement proposed comprehensive plan designation is Urban Standard Residential and the proposed zoning is R5. The parcel is not identified on the county community plan map as an Area of Special Concern. Staff finds no evidence of overlay zoning or significant tree groves associated with the parcel. Therefore, staff finds that Washington County special plan policies are not applicable. Staff Report included findings related to the comprehensive plan and zoning criteria. Based on that information presented in the Staff Report, staff recommended approval of CPA 99-00020 and RZ 99-00011, 16705 SW Hart Road, as shown in exhibits A1 and A2 in the Staff Report.

Commissioner Heckman asked how many will they see of these next year? Mr. Whitworth responded he did not know, but would estimated about 20.

Chairman Maks asked if there were any other questions of the staff, hearing none, he opened for public comment and there were none, and he closed that portion of the hearing.

Commissioner Johansen MOVED and Commissioner Wolch SECONDED a motion to approve CPA 99-00020, based on the facts and findings presented in the Staff Report dated October 18, 1999.

The question was called and the motion CARRIED unanimously.

Commissioner Johansen MOVED and Commissioner Voytilla SECONDED a motion to approve RZ 99-00011, based on the facts and findings presented in the Staff Report dated October 18, 1999.

The question was called and the motion CARRIED unanimously.

D. **CPA 99-00021 RZ 99-00012 PRINCE COMPREHENSIVE PLAN AMENDMENT AND REZONE**

This proposal is to amend the Comprehensive Plan and Zoning Maps to add this parcel and to designate it Station Community (SC) and High Density Residential (HDR) instead of the current Washington County designation of Transit Oriented (TO) : R18-24. The site is located north of Baseline Road and west of SW 170th Avenue. The site is within the Washington County TO:R18 - 24 zone and is approximately 0.56 acres in size. Tax Lot 14600; Map1S1-06AD.

Chairman Maks asked if there was any member of the Commission who wished to declare an ex parte contact over conflict of interest in the following request or for any reason disqualify themselves from participation. He asked if anyone wished to challenge the right of any member of the Commission to participate in the hearing or ask that the hearing be continued to a later date. Hearing none, he began the hearing.

Mr. Alan Whitworth, Senior Planner, stated this proposal is a City initiated quasi judicial amendment to add a City comprehensive plan map designation and zoning district to Tax Lot 14600, Map 1S1 06AD, located at the northwest corner at the intersection of realigned SW 170th Avenue and Baseline Road. The City Council approved the annexation at the November 8, 1999 meeting to become effective 30 days following the ordinance's second reading. The purpose of the proposed amendment is to add newly annexed property to the comprehensive plan and zoning maps. The parcel is currently designated transit oriented residential 18 to 24 units per acre by Washington County in compliance with the Washington County - Beaverton Urban Planning Area Agreement. The proposed comprehensive plan designation is Station Community and the proposed zoning is High Density Residential. The parcel is not identified on the county community plan map as an Area of Special Concerns. Staff found no evidence of overlay zoning or significant tree groves associated with the parcel. Therefore, staff finds that Washington County special plan policies are not applicable. Staff Report included findings related to the comprehensive plan and zoning criteria. Based on that information presented in the Staff Report, staff recommended approval of CPA 99-00021 and RZ 99-00012, Prince Property, as shown in exhibits A1 and A2.

PUBLIC TESTIMONY:

ERIN CHAPMAN 14355 SW Allen Blvd., Ste. 210, Beaverton, 97005, stated she was with the Emerald Development Company and wanted to say that they supported the staff recommendations, the rezone and it was very similar to the attached property and high residential zoning.

Chairman Maks thanked Ms. Chapman, asked if there were any final comments and hearing none, close that portion of the hearing.

Commissioner Heckman MOVED and Commissioner Wolch SECONDED a motion to approve CPA 99-00021, based on the facts and findings presented on page 10 of the Staff Report.

The question was called and the motion CARRIED unanimously.

Commissioner Heckman MOVED and Commissioner Wolch SECONDED a motion to approve RZ 99-00012, based on the facts and findings presented in the Staff Report and specifically the findings amended as attached on pages 10 and 11 on the Staff Report.

The question was called and the motion CARRIED unanimously.

APPROVAL OF MINUTES

Chairman Maks requested a correction of the July 21 minutes, on page 8, fourth paragraph states that Chairman Maks said "she" was won over with the statement, would be changed to "he".

Commissioner Voytilla said on page 14, next to the last paragraph quoting a comment he had made, he did not recall that making that statement, and that it could be change to "a Commissioner" said that.

Commissioner Voytilla said that on the approval of minutes on Page 20, there was a comment that he indicated the recorder needs to be there on the last page, again, he did not recall saying that.

Commissioner Heckman MOVED and Commissioner Wolch SECONDED a motion to approve the minutes from July 21, 1999, as amended at this meeting.

The question was called and the motion CARRIED unanimously.

Commissioner Heckman MOVED and Commissioner Johansen SECONDED a motion to approve the minutes from September 15, 1999, as amended at this meeting.

The question was called and the motion CARRIED unanimously.

Meeting **ADJOURNED** at 8:40 p.m.